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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,165	02/13/2002	Wai William Wang	BHT-3212-7	4738

36716 7590 04/26/2004

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EXAMINER	
HUBER, PAUL W	

ART UNIT	PAPER NUMBER
2653	11

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/073,165	WANG ET AL.	
	Examiner	Art Unit	
	Paul Huber	2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 March 2004 and 19 April 2004* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3 and 5-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3 and 5-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *10* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 8-11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Koike (USP-5,309,419).

Koike discloses a method and information recording/reproducing apparatus for determining a recording power of a radiation beam for recording information onto a recording medium operated at a user-desired speed. "Information is recorded on the try-to-write region 4 on the inside of the innermost periphery of the rewritable region 2 of the optical disk 1 while rotating it at linear velocities equal to the recording velocities of at least two positions (radii R1, R2) in the radius direction A within the rewritable region 2, and the optimum recording light amounts are measured" (abstract). See figures 2 & 3. Therefore, Koike teaches determining an optimum recording power corresponding to each of a plurality of test speeds being operated, as claimed. "Then, the optimum recording light amounts for all velocities in the rewritable region 2 are determined by interpolation or extrapolation processing 26 of the measured optimum recording light amounts at the two velocities" (abstract). See figure 6. Accordingly, a function of speed is generated based on a relationship between the optimum recording power and the corresponding test speed, and the recording power of the user-desired speed is calculated by applying the user-desired speed in the function of speed as claimed.

Regarding claims 3 & 10, Koike recites that "in the try-to-write region 4, the control signal S3 is optimized, for example, the linear velocity LV1 at the innermost periphery, or radius R1 of the rewritable region 2 and for the linear velocity LV2, at the outmost periphery, or radius R2" (col. 4, lines 64-68). Accordingly, it is within the scope of the invention that the initial test recording may be performed at linear velocities (and at corresponding radii) other then for the linear velocity LV1 at the innermost periphery at radius R1, or for the linear velocity LV2 at the outmost periphery at radius R2, wherein the user-desired speed may be faster than all the plurality of test speeds as claimed.

Regarding claim 5, see figure 5.

Regarding claims 8 & 14, Koike teaches in reference to figure 6, col. 7, lines 6-29, that the function of speed is generated by a curve-fitting program.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 6, 7, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koike, as applied to the claims above, in further view of Official Notice.

Koike discloses the invention as claimed, but fails to specifically teach that the function of speed is either a polynomial function of at least two orders or is an exponential function. However, it is manifestly well known in the art that one could perform an interpolation or extrapolation calculation based on two data points observed, in the same field of endeavor, for the purpose of determining all the data points described by the well known and used polynomial function of at least two orders or exponential function, and Official Notice is hereby taken.

It would have been obvious to one having ordinary skill in the art to modify Koike such that one performs an interpolation or extrapolation calculation using either a polynomial function of at least two orders or an exponential function based on the two data points observed, i.e., the linear velocity LV1 at the innermost periphery at radius R1 and the linear velocity LV2 at the outmost periphery at radius R2, as well known in the art, in order to determine the optimum recording light amounts for all velocities in the rewritable region 2. A practitioner in the art would have been motivated to do this for the purpose of more accurately determining all the data points described by the well known and used polynomial function of at least two orders or exponential function.

Relative to the doctrine of Official Notice, see In re Fox, 176 U.S.P.Q. 340 at 341 (CCPA-1973).

Any inquiry concerning this communication should be directed to Paul Huber at telephone number 703-308-1549.

Paul Huber
Primary Examiner
Art Unit 2653